THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.25064 of 2005

Date: 24.11.2005

Between:

M.A.Moshe.

.. PETITIONER

AND

The Regional Manager and others. **.. RESPONDENTS**

ORDER:

The petitioner was appointed as a Driver in APSRTC. The 3rd respondent issued a Charge Sheet to the petitioner, on the allegation that he was unauthorisedly absent for certain period and that he was required to submit the explanation as to why necessary disciplinary action shall not be taken against him. The petitioner submitted his explanation to the same. On a consideration of the same, the 3rd respondent passed an order, dated 30.10.1996, imposing the penalty of stoppage of annual increment for a period of one year with cumulative effect. Aggrieved thereby, the petitioner preferred an appeal before the appellate authority and the same was rejected. Hence, this Writ Petition.

The only point urged by Sri S.M.Subhan, the learned counsel for the petitioner, is that the 3rd respondent imposed the penalty of stoppage of annual increment for a period of one year with cumulative effect, without conducting departmental enquiry. He placed reliance upon the Judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB*** and submits that stoppage of increment is a major penalty and it cannot be imposed, except by conducting departmental enquiry.

Ms. B.G.Uma Devi, the learned Standing Counsel appearing for the respondents, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the 3rd respondent imposed the penalty of stoppage of annual increment for a period of one year with cumulative effect on the basis of the charges levelled against him. Though the charge sheet was issued to the petitioner before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's*** case (1 supra), the Supreme Court held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the 3rd respondent to pass fresh orders. To avoid further delay and complication in the mater, this Court is of the view that the impugned order can be treated as the one for stoppage of annual increment without cumulative effect.

Hence, the Writ Petition is partly allowed, directing that the order, dated 30.10.1996, passed by the 3rd respondent shall be treated as the one for stoppage of annual increment for a period of one year without cumulative effect and that the petitioner shall not be entitled for any monetary benefits up to the date of this order. There shall be no order as to costs.

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24.11.2005

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